

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

NOTICE OF INTENT
TO DEPART

06-CR-6077L

v.

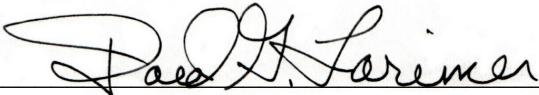
HOWARD DENNIS KELLY,

Defendant.

This is to give notice that the Court is considering making an upward departure, pursuant to U.S. Sentencing Guidelines, 4A1.3, on the grounds that the defendant's criminal history substantially under-represents the seriousness of his criminal history or the likelihood that defendant will commit other crimes.

I have not finally decided the issue, but hereby give notice that I am considering such a departure and, therefore, give the parties a chance to address the matter, in writing or orally, at the time of sentencing. If a writing is contemplated, it must be filed at least two (2) business days prior to the sentencing date.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
April 16, 2008.